

WASHINGTON CITY.

WEDNESDAY, DECEMBER 27, 1858.

ABSOLUTE POPULAR GOVERNMENT IN THE TERRITORIES.

A resolution has been offered in the House of Representatives, proposing the enactment of a law referring the appointment of governors, judges, and other territorial officers to the people of the Territories at the polls. This is the *ne plus ultra* of the theory of squatter sovereignty. Blackstone lays it down that every law is the result of the experience of mankind in practical life, and is founded upon some good and sufficient reason; and that it follows as a sound principle of legal construction and judicial interpretation, that when the reason of such a law ceases, then the law itself should become defunct, the maxim being, *cessante ratione, cessat et ipsa lex*. It cannot be urged, in excuse for this law as now proposed, that any evils have resulted from the present mode of appointing the chief officers of the Territories, which demand an abandonment of it; or that the mode of appointment now proposed would correct such evils as do prevail, and would not itself be attended with like or greater evils.

We cannot imagine a single evil that the proposed mode of appointing territorial officers would avoid, or a single practical advantage that it would accomplish. It lacks the most essential ingredient of every wise law—that of being founded upon sound practical reason. It is the suggestion of mere theory, regardless of experience and reckless of practical consequences. It is the proposition not of statesmanship, but of mere idealism; unless, indeed, it be the cunning artifice of demagoguery. It is the quintessence of French red-republicanism, not proposed to be introduced into the government of stable and firmly-planted society in old States, where it would be comparatively innocuous; but into new, infant, immature, unstable, and rickety communities, where conservatism exists in no form, and where the sustaining hand of federal conservatism, stretched out to steady, strengthen, and to save, comes as a godsend.

We seem always to forget that our system of popular government is an experiment; one that has been often tried in the eventful history of mankind, under circumstances fully as favorable and promising as those which surround us, but which has always failed until now. We are but three-quarters of a century old in government—a very small portion of the infancy of a nation—and we already have concluded that our success is complete. Nay, in the pride of our overweening confidence, we are presumptuously applying the most severe tests to our institutions, tests which, but for their extraordinary vigor, would already have shattered them to pieces. We cannot imagine a more severe trial to popular institutions than the enactment of laws which do not spring from the exigencies of practical, outdoor life, are not called for by any experienced evil, and promise no practical advantage; but are the mere suggestions of abstract theory, the deductions of a crazy idealism working itself into a frenzy of philanthropic innovation, in the closet. This sort of legislation was pursued in France for a few memorable years, and ended in a catastrophe which will astonish and appal mankind to the end of time. The stability of British institutions is for the most part due to that sturdy common sense of the Anglo-Saxon race, which always sternly rejected reforms which were founded in mere theory, and adopted no law that was not justified by some sufficient practical reason.

The strength of British institutions consists in the fact that they rest upon the broad and solid basis of the English Common Law, a system of laws which grew up upon the experience and transactions of actual life extending down from remote times whereof the memory of man runneth not to the contrary. It is to the sound wisdom of this same old English Common Law, which was the foundation of all our American codes, that the stability of our own institutions and the success of our experiment of self-government so far, are mainly due. It is not that the special provisions of the Common Law, so many of which we have abrogated, were essentially the wisest or best in every case which theory would suggest; but that they were founded always in some practical reason suggested by actual experience. The only true and real conservatism is at last, not the adhering to old laws because they stand on the statute book, but the not abolishing them unless sufficient practical reason for so doing exists, and the not adopting others unless some positive practical advantage is promised by new enactments.

Herein was all the wisdom and conservatism of the old Common Law system, that each law was founded upon some reason which it adequately subserved. We cannot hope to enjoy the stability and happiness which that noble system of laws has secured to us in this land as it did to our ancestors in the fatherland, unless we adopt at least this, its leading canon, in the repealing of old statutes and the enactment of new ones. Tried by this test, we defy a successful defence of the proposition now brought forward for radically changing our whole plan of territorial government. What experienced evil does the innovation propose to remedy? What conceivable advantage does it profess or promise to accomplish?

If the measure is merely brought forward as a political manoeuvre or partisan artifice, it is of course unworthy to be rejected for that reason alone, and does not merit any grave consideration.

THE SUIT OF PASSMORE WILLIAMSON AGAINST JUDGE LEWIS.

We are by the Philadelphia papers that the suit of Williamson against the late Chief Justice Lewis, arising out of judicial proceedings in the case of Col. Wheeler's slaves, has, at length, been decided in favor of the defendant. The public, it will be remembered, was very much agitated two or three years ago by the sharp work of the Pennsylvania lawyers against the late Judge Kane and Justice Lewis. The Tribune, and, indeed, all the black-republican journals, took part for Williamson. He was nominated for a high elective office, and it was confidently counted that the abolitionists had made a capital hit in the martyrdom of Passmore. The *Habeas Corpus* was widely treated as a general passport which anybody might invoke, and by which rogues and felons could demand a hearing before the judge of their own selection. Respectable newspapers insisted that to confine the process to cases of illegal imprisonment was to destroy its efficacy as a writ of right. They proposed to sue every judge with it; and declared,

in all cases, that a failure to issue it on application was not only an offence against the law, but a greater offence against popular rights. Their reasoning led them to the absurd and ridiculous position that the judiciary was established to screen offenders and not to protect honest people. They assailed the democratic party, it will be remembered, on the same grounds for urging and endorsing the enactment of the fugitive-slave law, declaring that the act repealed the *Habeas Corpus*. The Press says, in Williamson's case:

"The court, after hearing all the plaintiff's evidence, directed a *non est*, on the ground that the *Habeas Corpus* act did not apply to cases of commitments in execution of final judgments at trial, but only to warrants of arrest issued before trial. It seems to be settled that a judge has no right to allow a writ of *Habeas Corpus* where it appears, on the applicant's own showing, that the prisoner is legally imprisoned under the sentence or judgment of a court of competent jurisdiction, as was the case with Mr. Williamson."

"Thus, although it is highly probable that Mr. Williamson will carry the case still further, this vexatious case may be said to be settled on enduring principles. Ex-Chief Justice Lewis (now private citizen Lewis) declined taking advantage of any of the technicalities of the case, but threw himself for vindication upon the principle which regulated his original action, and on this it would appear he has been triumphantly sustained."

There is a lesson in this case which we trust will not be without effect, and which is applicable to both sections of the Union. The abolitionists contended that the fugitive-slave law was void, because it violated natural rights; some of the southern people maintain that the penalties imposed upon the foreign slave trade are void for the same or a less tenable reason.

A CARD FROM HON. MR. ENGLISH.

My attention has been called to the statement inserted in the Washington papers of yesterday, at the request of Hon. Wm. Montgomery, purporting to give an account of his interview with me on Saturday last. I propose saying a few words in relation to it. I neither know nor care who the parties are who made the statement, as it carries on its face conclusive evidence of its partial and *ex parte* character. Different versions of such an affair should exist might be expected; and that the part that I took in it should be grossly misrepresented occasions me no surprise whatever.

I shall not busy up counter-statements from hackmen or others; neither shall I engage in newspaper controversies about it, invoke the protection of the law, or the intervention of the police. I neither seek, nor have sought, any difficulty with Mr. Montgomery—I shall avoid none.

When I met him on Saturday I was not aware (nor am I yet) that I had by word or deed given him any cause for offence; and when, in friendly conversation, I extended to him my hand, I addressed him in terms courteous, polite, and gentlemanly. This friendly salutation was met in a rude and insulting manner, which I resented, on the instant, in the most effective way then in my power. The blow fell as quick as it could reach its object after the insult was given.

For this I was recognized to court, at the instance and upon the affidavit of Mr. Montgomery, and this is the whole transaction in a nut shell. The details of the rencontre, or which got the best of it, or whether the blame was on either side, or whether there was any cause for offence, I leave to the public to decide, which I shall not unduly words. On my part the collision was wholly unprovoked and without notice—an impulse based upon an unexpected and unprovoked indignity offered me. WILLIAM H. ENGLISH.

DECEMBER 21, 1858.

FRAUDS ON THE PENSION OFFICE.

We understand the Commissioner of Pensions has received information from his special agent, now in Tennessee, of the arrest of Willis N. Arnold, of Henderson county, and of Henry Wright, of Lexington, that State, for frauds committed by them under the bounty laws. The parties were taken under the bounty laws at Nashville, the former held to bail in the sum of \$20,000 for his appearance at the term of the federal court to be held at Jackson in April next. The latter, after his arrest, became, or feigned to have become, insane, and is now undergoing a preliminary medical examination.

THE AGRICULTURAL CONVOCATION.

Mr. R. J. Gage, of Fair Forest, South Carolina, secretary of the State Agricultural Society, says, in reply to a letter of invitation from the United States Patent Office, dated December 13, 1858, in reference to the convention of agriculturists to be held in the city of Washington on the 3d of January:

"You are right, sir: concert in action and opinion is what the agricultural population require. They have not learned the secret power of association for the protection of their own rights or the protection of their own plans. You have my best wishes for the success of your laudable efforts, and may always rely upon my humble support."

PERSONAL PARAGRAPHS.

Hon. John Nelson, of Baltimore, is at Kirkwood's; Hon. J. M. McKel, of Maryland, is at Willards' Hotel; Hon. Z. Kidwell, of Virginia, is at Brown's Hotel.

Sir Francis B. Head appears in print as the solitary defender in England of Louis Napoleon's conduct in the Montebello affair.

Mr. John Langdon Sibley, the librarian of Harvard College, has been for many years collecting materials for a complete and accurate biography of all the graduates of that institution.

Cyrus W. Field learns that some very good currents have been received over the Atlantic cable, and that De Sauty has recognised one general.

Mr. Mowbray Morris, general manager of the London Times, was recently twice fogged in London by a Mr. Gisporn, who charged him with improper attentions to his wife.

Rev. Thomas K. Beecher, of Elmira, New York, has just been appointed captain of militia. Capt. B. is quite an original pulpit orator, though his reputation is not quite so wide as his brother, H. W. Beecher.

Captain McGowan, in the last outbreak of the steamer Illinois (at Aspinwall), got up a false alarm of fire for the purpose of disciplining the fire department of his ship to a strict conformity with the fire bill, so that in case of emergency each man will readily know his duty and place. He was not arrested.

Mr. F. W. Gilmore arrived at Boston in the steamship Atlantic on Saturday with papers and full powers from the Nova Scotia Telegraph Company to unite with a Boston company in securing direct telegraphic communication between Boston and Halifax. It is to be hoped that this arrangement can be carried into effect.

Prof. De Bow has engaged with David Graham, esq., and Judge A. S. Fulton, to open their lead properties on New River, Wythe county, Virginia, and for the purpose has sent on Mr. William Reddison Farmley, a practical and experienced miner and engineer, from the celebrated lead mines of Durham, England.

Darley, the imitable, is winning golden opinions among Boston artists and art-lovers by an exquisite Indian ink painting, illustrative of the passage in Longfellow's poem of Miles Standish, describing the bridal procession of John and Priscilla Alden, proceeding to their new habitation. The grouping of the figures, the grace and ease of attitude, and the careful attention to the minutest details, which the artist has so happily depicted, have stamped in the minds of artists this last effort of Darley as his best, and the many people who examine and admire it show the favor with which it is received.

CONGRESSIONAL.

Thirty-Fifth Congress—Second Session.

TUESDAY, DECEMBER 21, 1858.

SENATE.

A message was received from the President of the United States, in compliance with a resolution of the 7th January last, requesting him to communicate the official despatches and correspondence of the Commissioners in China with the State Department; which was read and referred to the Committee on Printing.

[The President encloses a letter from the Secretary of State, covering all the correspondence from the 26th of October, 1853, to the 7th August, 1857, and remarking "It does not appear that the resolution asks for instructions of this Department to Messrs. McLane and Parker, and it is not deemed advisable that they should be made public at this juncture." The document is exceedingly voluminous, occupying at least five reams of foolscap paper.]

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, made in compliance with a resolution of the Senate of the 16th instant, calling for the annual report of Lieut. Col. J. D. Graham on the Lake Harbors, from Lake Michigan to Lake Champlain, including Lakes Erie and Ontario. The Secretary states that the report in question has already been communicated to Congress in the documents transmitted with the President's message and accompanying documents at the opening of the present session. The communication was ordered to lie on the table.

MEMORIALS, ETC.

The following memorials and petitions were presented and appropriately referred:

By Mr. SEWARD: From manufacturers of gold and silver leaf in the city of New York and other places, praying a modification of the tariff of 1857 in respect to gold and silver leaf and the articles used in their manufacture.

Also, three memorials from inhabitants of Onondaga and Jefferson counties, New York, praying the creation of a breakwater at the port of Cape St. Vincent.

By Mr. ROOT: From Jeremiah Thompson, asking to be allowed an invalid pension for a wound received in the last war with Great Britain. Mr. F. remarked that he was personally acquainted with the memorialist, and, having investigated the case and found it to be a meritorious one, he invoked the early and favorable consideration of the Committee on Pensions to the subject.

Mr. W. addressed the Senate in favor of these applications. He believed that the route from the Mississippi river, by the way of Fulton and El Paso, was the shortest route by fifty per cent; but if, on further examination, any shorter one could be found, it should by all means be adopted. It was only 650 miles from El Paso to San Francisco.

Mr. SEWARD was glad to hear these different positions advanced, as it showed that a deep interest was being felt in this important subject. He advocated the bill reported by the committee as the best measure that would be likely to command a majority of the votes of Congress, and he hoped that the committee would adopt it as soon as possible. He would like to have the road commence at a high northerly latitude, and go directly across the continent in the northwestern track of emigration, which has been pursued from the time the lake navigation was opened until we find a population already gathered upon the route of Lake Superior. Mr. S. proceeded to enlarge upon the varied advantages which would result from this great enterprise in a commercial and military point of view. Such a road would maintain peace and order among the savage tribes which roam over the interior of this continent; and if need be, it would be a great aid in the northwestern war, which he hereafter regarded, in the near future, as inevitable. If there had been a Pacific railroad, there would have been none of those disturbances in Utah which have existed for a few years past.

On the conclusion of his remarks the Senate proceeded to the consideration of executive business, and, after some time spent thereon, adjourned.

HOUSE OF REPRESENTATIVES.

Mr. KELLOGG, of Illinois, asked consent to introduce the following resolution:

Resolved, That the Committee on Territories be instructed to report to this House a bill that shall embrace all the organized Territories of the United States, providing for the election by the people of all territorial officers now appointed by the President. Also, providing for the donation of one hundred and sixty acres of government land to each settler of said Territories, under such regulations and instructions as shall secure an actual and full occupation and permanent improvement thereof; the title thereof to be secured to the settler on such conditions as the committee may deem advisable to secure the permanent settlement and improvement of said lands; and that no person shall be entitled to receive from the government more than one donation of land under the provisions of said bill. Also, providing that in each of said Territories the people shall be authorized to elect a representative to the House of Representatives, and that the representatives of said Territories shall remain in a territorial condition until the number required for one representative under the ratio of congressional representation; and that the people of any of said Territories may, by a vote of the majority of the legal voters, petition the House of Representatives, and having formed a constitution for such Territory, shall cause the same to be submitted to a fair vote of the legal voters of such Territory for approval or rejection.

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reception of the Senate, and that an address from the President on the occasion of the removal would be appropriate. The committee therefore submit the following resolution:

Resolved, That the Superintendent of the Capitol Extension be directed to prepare the chamber for the occupancy of the Senate by the fourth day of January next, and that a committee of three be appointed by the Chair to make all the necessary arrangements.

Mr. IYERSON desired to know whether any arrangement had been made with regard to the seats which the senators would occupy in the new hall. Unless some plan could be adopted, he presumed there would be a general scramble for the best seats.

Mr. HALLE objected to the consideration of the resolution to-day; and it accordingly lies over.

Subsequently, Mr. SEWARD remarked that if the senator from Indiana would call up the subject again he would be willing to believe that Mr. HALLE's objection would be withdrawn.

Mr. MASON stated that he should renew it.

On motion by Mr. SHIELDS, the Senate proceeded to the consideration of the bill for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent.

Mr. S. explained the circumstances under which the claim arose, and hoped the bill would be immediately put on its passage.

Mr. FENNER desired to say something in reply, but the hour for the consideration of the special order having arrived, the further consideration of the bill was postponed until to-morrow.

PACIFIC RAILROAD BILL.

The Senate resumed the consideration of the Pacific railroad bill, the pending question being on the motion of Mr. WILSON to strike out in the first section the words, "the most eligible route, reference being had to feasibility, shortness, and economy," and insert in lieu thereof, "the shortest route, reference being had to the parallel of latitude thirty-five and forty-two."

Mr. WILSON modified his amendment so that it would read "between the parallels of latitude thirty-four and forty-three."

Mr. WAID moved to amend the amendment so that it would read "between the parallels of latitude thirty-four and thirty-five and forty-two."

Mr. SEWARD was glad to hear these different positions advanced, as it showed that a deep interest was being felt in this important subject. He advocated the bill reported by the committee as the best measure that would be likely to command a majority of the votes of Congress, and he hoped that the committee would adopt it as soon as possible. He would like to have the road commence at a high northerly latitude, and go directly across the continent in the northwestern track of emigration, which has been pursued from the time the lake navigation was opened until we find a population already gathered upon the route of Lake Superior. Mr. S. proceeded to enlarge upon the varied advantages which would result from this great enterprise in a commercial and military point of view. Such a road would maintain peace and order among the savage tribes which roam over the interior of this continent; and if need be, it would be a great aid in the northwestern war, which he hereafter regarded, in the near future, as inevitable. If there had been a Pacific railroad, there would have been none of those disturbances in Utah which have existed for a few years past.

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Resolved, That the Committee on Territories be instructed to report to this House a bill that shall embrace all the organized Territories of the United States, providing for the election by the people of all territorial officers now appointed by the President. Also, providing for the donation of one hundred and sixty acres of government land to each settler of said Territories, under such regulations and instructions as shall secure an actual and full occupation and permanent improvement thereof; the title thereof to be secured to the settler on such conditions as the committee may deem advisable to secure the permanent settlement and improvement of said lands; and that no person shall be entitled to receive from the government more than one donation of land under the provisions of said bill. Also, providing that in each of said Territories the people shall be authorized to elect a representative to the House of Representatives, and that the representatives of said Territories shall remain in a territorial condition until the number required for one representative under the ratio of congressional representation; and that the people of any of said Territories may, by a vote of the majority of the legal voters, petition the House of Representatives, and having formed a constitution for such Territory, shall cause the same to be submitted to a fair vote of the legal voters of such Territory for approval or rejection.

The Senate adjourned.

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